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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SIDNEY NAIMAN, individually and
on behalf of all others similarly
situated,

Plaintiff,

vs.

GLOBAL ATLANTIC FINANCIAL COMPANY, and DOES 1 through 10,
inclusive, and each of them,

Defendant(s).

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CLASS ACTION

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**COMPLAINT FOR VIOLATIONS
OF:**

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1. NEGLIGENT VIOLATIONS OF
THE TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C.
§227 ET SEQ.]

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2. WILLFUL VIOLATIONS OF THE
TELEPHONE CONSUMER
PROTECTION ACT [47 U.S.C.
§227 ET SEQ.]

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DEMAND FOR JURY TRIAL

Plaintiff, SIDNEY NAIMAN (“Plaintiff”), on behalf of himself and all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

NATURE OF THE CASE

1. Plaintiff brings this action for himself and others similarly situated seeking damages and any other available legal or equitable remedies resulting from

1 the illegal actions of GLOBAL ATLANTIC FINANCIAL COMPANY
 2 (“Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff on
 3 Plaintiff’s cellular telephone in violation of the Telephone Consumer Protection
 4 Act, 47. U.S.C. § 227 *et seq.* (“TCPA”), thereby invading Plaintiff’s privacy.

JURISDICTION & VENUE

2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,
 a resident of California, seeks relief on behalf of a Class, which will result in at
 least one class member belonging to a different state than that of Defendant, a
 Delaware corporation. Plaintiff also seeks up to \$1,500.00 in damages for each call
 in violation of the TCPA, which, when aggregated among a proposed class in the
 thousands, exceeds the \$5,000,000.00 threshold for federal court jurisdiction.
 Therefore, both diversity jurisdiction and the damages threshold under the Class
 Action Fairness Act of 2005 (“CAFA”) are present, and this Court has jurisdiction.

3. Venue is proper in the United States District Court for the Northern
 District of California pursuant to 28 U.S.C. § 1331(b)(2) because Defendant does
 business within the state of California and Plaintiff resides within this District.

PARTIES

4. Plaintiff, SIDNEY NAIMAN (“Plaintiff”), is a natural person residing
 in Contra Costa County, California and is a “person” as defined by 47 U.S.C. § 153
 (39).

5. Defendant, GLOBAL ATLANTIC FINANCIAL COMPANY
 (“Defendant” or “DEFENDANT”), is an insurance company, and is a “person” as
 defined by 47 U.S.C. § 153 (39).

6. The above named Defendant, and its subsidiaries and agents, are
 collectively referred to as “Defendants.” The true names and capacities of the
 Defendants sued herein as DOE DEFENDANTS 1 through 10, inclusive, are
 currently unknown to Plaintiff, who therefore sues such Defendants by fictitious
 names. Each of the Defendants designated herein as a DOE is legally responsible

1 for the unlawful acts alleged herein. Plaintiff will seek leave of Court to amend the
2 Complaint to reflect the true names and capacities of the DOE Defendants when
3 such identities become known.

4 7. Plaintiff is informed and believes that at all relevant times, each and
5 every Defendant was acting as an agent and/or employee of each of the other
6 Defendants and was acting within the course and scope of said agency and/or
7 employment with the full knowledge and consent of each of the other Defendants.
8 Plaintiff is informed and believes that each of the acts and/or omissions complained
9 of herein was made known to, and ratified by, each of the other Defendants.

FACTUAL ALLEGATIONS

11 8. Beginning on or around May 6, 2019, Defendant contacted Plaintiff
12 on his cellular telephone ending in -6535, in an effort to sell or solicit its services.

15 10. Defendant used an “automatic telephone dialing system”, as defined
16 by *47 U.S.C. § 227(a)(1)* to place its calls to Plaintiff seeking to sell or solicit its
17 business services.

18 11. Defendant's calls constituted calls that were not for emergency
19 purposes as defined by *47 U.S.C. § 227(b)(1)(A)*.

20 12. Defendant's calls were placed to telephone number assigned to a
21 cellular telephone service for which Plaintiff incurs a charge for incoming calls
22 pursuant to 47 U.S.C. § 227(b)(1).

23 13. Plaintiff is not a customer of Defendant's services and has never
24 provided any personal information, including his cellular telephone number, to
25 Defendant for any purpose whatsoever.

14. Defendant never received Plaintiff's "prior express consent" to receive calls using an automatic telephone dialing system or an artificial or prerecorded voice on his cellular telephone pursuant to 47 U.S.C. § 227(b)(1)(A).

15. Plaintiff alleges upon information and belief, including without limitation his experiences as recounted herein, especially his experience of being called despite Defendant's lack of express consent to call him, that Defendant lacks reasonable policies and procedures to avoid the violations of the Telephone Consumer Protection act herein described.

CLASS ALLEGATIONS

16. Plaintiff brings this action individually and on behalf of all others similarly situated, as a member the proposed class (hereafter, "The Class") defined as follows:

All persons within the United States who received any solicitation/telemarketing telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously consented to receiving such calls within the four years prior to the filing of this Complaint

17. Plaintiff represents, and is a member of, The Class, consisting of all persons within the United States who received any solicitation telephone calls from Defendant to said person's cellular telephone made through the use of any automatic telephone dialing system or an artificial or prerecorded voice and such person had not previously not provided their cellular telephone number to Defendant within the four years prior to the filing of this Complaint.

18. Defendant, its employees and agents are excluded from The Class. Plaintiff does not know the number of members in The Class, but believes the Class members number in the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

19. The Class is so numerous that the individual joinder of all of its members is impractical. While the exact number and identities of The Class

1 members are unknown to Plaintiff at this time and can only be ascertained through
2 appropriate discovery, Plaintiff is informed and believes and thereon alleges that
3 The Class includes thousands of members. Plaintiff alleges that The Class
4 members may be ascertained by the records maintained by Defendant.

5 20. Plaintiff and members of The Class were harmed by the acts of
6 Defendant in at least the following ways: Defendant illegally contacted Plaintiff
7 and The Class members via their cellular telephones thereby causing Plaintiff and
8 The Class members to incur certain charges or reduced telephone time for which
9 Plaintiff and The Class members had previously paid by having to retrieve or
10 administer messages left by Defendant during those illegal calls, and invading the
11 privacy of said Plaintiff and The Class members.

12 21. Common questions of fact and law exist as to all members of The
13 Class which predominate over any questions affecting only individual members of
14 The Class. These common legal and factual questions, which do not vary between
15 Class members, and which may be determined without reference to the individual
16 circumstances of any Class members, include, but are not limited to, the following:

- 17 a. Whether, within the four years prior to the filing of this
18 Complaint, Defendant made any telemarketing/solicitation call
19 (other than a call made for emergency purposes or made with
20 the prior express consent of the called party) to a Class member
21 using any automatic telephone dialing system or any artificial
22 or prerecorded voice to any telephone number assigned to a
23 cellular telephone service;
- 24 b. Whether Plaintiff and the Class members were damaged
25 thereby, and the extent of damages for such violation; and
- 26 c. Whether Defendant should be enjoined from engaging in such
27 conduct in the future.

28 22. As a person that received numerous telemarketing/solicitation calls

1 from Defendant using an automatic telephone dialing system or an artificial or
2 prerecorded voice, without Plaintiff's prior express consent, Plaintiff is asserting
3 claims that are typical of The Class.

4 23. Plaintiff will fairly and adequately protect the interests of the members
5 of The Class. Plaintiff has retained attorneys experienced in the prosecution of
6 class actions.

7 24. A class action is superior to other available methods of fair and
8 efficient adjudication of this controversy, since individual litigation of the claims
9 of all Class members is impracticable. Even if every Class member could afford
10 individual litigation, the court system could not. It would be unduly burdensome
11 to the courts in which individual litigation of numerous issues would proceed.
12 Individualized litigation would also present the potential for varying, inconsistent,
13 or contradictory judgments and would magnify the delay and expense to all parties
14 and to the court system resulting from multiple trials of the same complex factual
15 issues. By contrast, the conduct of this action as a class action presents fewer
16 management difficulties, conserves the resources of the parties and of the court
17 system, and protects the rights of each Class member.

18 25. The prosecution of separate actions by individual Class members
19 would create a risk of adjudications with respect to them that would, as a practical
20 matter, be dispositive of the interests of the other Class members not parties to such
21 adjudications or that would substantially impair or impede the ability of such non-
22 party Class members to protect their interests.

23 26. Defendant has acted or refused to act in respects generally applicable
24 to The Class, thereby making appropriate final and injunctive relief with regard to
25 the members of the Class as a whole.

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

27. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-26.

28. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

29. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff and the Class Members are entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

30. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

31. Plaintiff repeats and incorporates by reference into this cause of action the allegations set forth above at Paragraphs 1-26.

32. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

33. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 *et seq.*, Plaintiff and the Class members are entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

34. Plaintiff and the Class members are also entitled to and seek injunctive relief prohibiting such conduct in the future.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendant for the following:

FIRST CAUSE OF ACTION

Negligent Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's negligent violations of *47 U.S.C. §227(b)(1)*, Plaintiff and the Class members are entitled to and request \$500 in statutory damages, for each and every violation, pursuant to *47 U.S.C. 227(b)(3)(B)*; and
 - Any and all other relief that the Court deems just and proper.

SECOND CAUSE OF ACTION

Knowing and/or Willful Violations of the Telephone Consumer Protection Act

47 U.S.C. §227 et seq.

- As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff and the Class members are entitled to and request treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C); and
 - Any and all other relief that the Court deems just and proper.

JURY DEMAND

35. Pursuant to his rights under the Seventh Amendment to the United States Constitution, Plaintiff demands a jury on all issues so triable.

Respectfully Submitted this 8th day of June, 2021.

LAW OFFICES OF TODD M. FRIEDMAN, P.C.

By: /s/ Todd M. Friedman

Todd M. Friedman

Law Offices of Todd M. Friedman

Attorney for Plaintiff